



PATENT
Customer No. 22,852
Attorney Docket No. 07883.0106

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
David H. MOWRY) Group Art Unit: 3743
Application No.: 09/769,746) Examiner: RAGONESE, ANDREA M
Filed: January 25, 2001)
For: INTRAVASCULAR) Confirmation No. 5109
VENTRICULOCORONARY)
BYPASS VIA A SEPTAL)
PASSAGEWAY (As Amended))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

**REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(b)**

In accordance with 37 C.F.R. § 1.705, Applicant hereby requests reconsideration of the patent term adjustment of 516 days as indicated on Determination of Patent Term Adjustment under 35 U.S.C. 154(b) ("Determination") for the above-referenced application. Specifically, as described below, this patent is entitled to 545 days of additional patent term. As required by 37 C.F.R. § 1.705(b)(1), this Request is accompanied by a check to pay the \$200.00 fee set forth in 37 C.F.R. § 1.18(e).

The PAIR printout, indicating how the Office calculated the 516 day patent term adjustment indicated in the Determination, is attached hereto. Applicant agrees that the Office accrued 574 days of delay under 37 C.F.R. § 1.703(a) for the failure to issue a first Office Action not later than 14 months after the filing of this application.

The PAIR printout, however, incorrectly indicates that the accrued 574 day patent term adjustment should be reduced by 58 days for alleged Applicant delay. Applicant agrees that the accrued patent term adjustment should be reduced by 29 days under the provision of 37 C.F.R. § 1.704(b) for an Amendment and Response to Election of Species Requirement filed more than three months after the issuance of the Office Action mailed October 20, 2003.

Applicant respectfully disagrees, however, that the accrued patent term adjustment should be reduced an additional 29 days. As indicated on the PAIR printout, a final Office Action was mailed on August 9, 2004. Applicant filed a Request for Reconsideration on November 4, 2004 in response to the final Office Action, which was within three months of the mailing date of the final Office Action as required by 37 C.F.R. § 1.704(b). An Advisory Action was then mailed on November 29, 2004. Applicant filed a Notice of Appeal on December 9, 2004 in response to the Advisory Action, which was within three months of the mailing date of the Advisory Action as required by 37 C.F.R. § 1.704(b).

Accordingly, the accrued 574 day patent term adjustment should only be reduced by 29 days, and thus the correct patent term adjustment is 545 days.

In accordance with 37 C.F.R. § 1.705(b)(2)(iv)(B), there was no circumstance, other than discussed above, constituting a failure to engage in reasonable efforts to conclude processing or examination of this application as set forth in 37 C.F.R. § 1.704.

In accordance with 37 C.F.R. § 1.705(b)(iii), this application is not subject to a Terminal Disclaimer.

Application No. 09/769,746
Attorney Docket No. 7883.0106
Request for Reconsideration of Patent Term Adjustment - August 30, 2005

Please grant any extensions of time required to enter this Request and charge
any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 30, 2005

By: 
Michael W. Kim
Reg. No. 51,880

Attachments: PAIR printout (2 pages).



Printer Friendly

09/769,746

INTRAVASCULAR VENTRICULOCORONARY ARTERY BYPASS DELIVERY MODALITIES

Patent Term Adjustment History

Patent Term Adjustment (PTA) for Application Number: 09/769,746			
			Days
Filing or 371(c) Date:	01-25-2001	USPTO Delay (PTO):	574
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay(APPL):	58
Post-Issue Petitions (days):	+0	Total PTA:	516
USPTO Adjustment(days):	+0	Explanation Of Calculations	

Patent Term Adjustment History			
Date	Contents Description	PTO(Days)	APPL(Days)
06-02-2005	Mail Notice of Allowance		
05-31-2005	Issue Revision Completed		
05-31-2005	Notice of Allowance Data Verification Completed		
05-31-2005	Notice of Allowability		
03-18-2005	Date Forwarded to Examiner		
03-08-2005	Appeal Brief Filed		
03-08-2005	Request for Extension of Time - Granted		
03-08-2005	Request for Extension of Time - Granted		
01-18-2005	Case Docketed to Examiner in GAU		
12-09-2004	Notice of Appeal Filed	↑	29
12-09-2004	Request for Extension of Time - Granted	↑	↑
11-30-2004	Mail Advisory Action (PTOL - 303)	↑	↑
11-29-2004	Advisory Action (PTOL-303)	↑	↑
11-16-2004	Date Forwarded to Examiner	↑	↑
11-04-2004	Amendment after Final Rejection	↑	↑
11-04-2004	Workflow incoming amendment IFW	↑	↑
08-10-2004	Mail Final Rejection (PTOL - 326)	↑	↑
08-09-2004	Final Rejection	↑	
07-06-2004	IFW TSS Processing by Tech Center Complete	↑	
07-06-2004	Date Forwarded to Examiner	↑	
06-16-2004	Reference capture on IDS	↑	
06-16-2004	Information Disclosure Statement (IDS) Filed	↑	
06-16-2004	Response after Non-Final Action	↑	
03-17-2004	Mail Non-Final Rejection	↑	
03-16-2004	Non-Final Rejection	↑	
03-04-2004	Date Forwarded to Examiner	↑	
02-18-2004	New or Additional Drawing Filed	↑	

02-18-2004	Response to Election / Restriction Filed	↑	29
02-18-2004	Request for Extension of Time - Granted	↑	↑
12-12-2003	Change in Power of Attorney (May Include Associate POA)	↑	↑
12-11-2003	Correspondence Address Change	↑	↑
10-20-2003	Mail Restriction Requirement	574	
10-20-2003	Requirement for Restriction / Election	↑	
06-23-2003	Case Docketed to Examiner in GAU	↑	
05-21-2002	Case Docketed to Examiner in GAU	↑	
05-06-2002	Case Docketed to Examiner in GAU	↑	
11-26-2001	Reference capture on IDS	↑	
11-26-2001	Information Disclosure Statement (IDS) Filed	↑	
07-23-2001	Case Docketed to Examiner in GAU	↑	
06-19-2001	Application Dispatched from OIPE	↑	
06-19-2001	Correspondence Address Change	↑	
03-28-2001	Application Is Now Complete	↑	
03-28-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
03-27-2001	Correspondence Address Change	↑	
03-27-2001	Correspondence Address Change	↑	
03-27-2001	Correspondence Address Change	↑	
02-12-2001	IFW Scan & PACR Auto Security Review	↑	
01-25-2001	Initial Exam Team nn	↑	

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